

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAIRO HERNANDEZ,

Defendant.

Case No. [14-cr-00120-EMC-6](#)

**ORDER TO SHOW CAUSE**

Docket No. 1035

Defendant Jairo Hernandez has filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Docket No. 1035. Mr. Hernandez asserts three grounds for the motion, all of which appear to be based on a theory of ineffective assistance of counsel. First, Mr. Hernandez claims that he was never provided “discovery” and “information” about his case from his counsel despite requesting such information, with the result that he “had no knowledge whatsoever of what was going on throughout the four years [he] was being held” during his case. *Id.* at 5. Second, Mr. Hernandez contends that his plea was “unintelligent” because he has “no knowledge” of his case or federal law. *Id.* at 6. Third, Mr. Hernandez asserts he received a diagnosis of “Post Traumatic Stress Disorder” a few weeks before his sentencing, but his counsel failed to introduce that evidence during sentencing. *Id.* at 7–8.

Pursuant to the Federal Rules Governing Section 2255 Proceedings, the Court has conducted a preliminary review of the motion. *See* Fed. R. Governing § 2255 Proceedings 4 (providing that “[t]he judge who receives the motion must promptly examine it”). Based on this review, the Court cannot say that it “plainly appears from the motion . . . that the moving party is not entitled to relief.” *Id.* Accordingly, the Court hereby orders the United States to respond to

1 the motion per the schedule below. *See id.* (providing that, “[i]f the motion is not dismissed, the  
2 judgment must order the United States attorney to file an answer, motion, or other response within  
3 a fixed time, or to take other action the judge may order”).

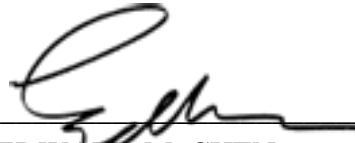
4 1. The United States shall file a response to Mr. Hernandez’s motion within sixty (60)  
5 days of the date of this order.

6 2. If the United States files an answer, it must conform to Rule 5 of the Federal Rules  
7 Governing § 2255 Proceedings. If the United States files an answer, Mr. Hernandez may submit a  
8 reply within ninety (90) days of the date of this order.

9 3. If the United States responds with, *e.g.*, a motion to dismiss or any other motion for  
10 relief, the parties shall meet and confer to discuss a mutually agreeable briefing schedule.

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12 **IT IS SO ORDERED.**

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14 Dated: December 21, 2018

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17 EDWARD M. CHEN  
18 United States District Judge  
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